

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

October 5, 2000

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, October 5, 2000 at 1:30 p.m. in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present. Chris Carraher, Chair; James Barfield; Frank Garofalo; Bud Hentzen; Bill Johnson; Richard Lopez (late arrival); Ron Marnell; Jerry Michaelis; Susan Osborne-Howes; George Platt; Ray Warren and Harold Warner. John W. McKay, Jr., was not present. Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner, Barry Carroll, Associate Planner, and Karen Wolf, Recording Secretary.

1. Approval of MAPC meeting minutes for August 31, 2000 and September 7, 2000.

CARRAHER "We will start off with the minutes for August 31. Are there any corrections or additions to the minutes?"

GAROFALO "I wasn't present at that meeting so I will abstain from voting."

CARRAHER "So noted. I will entertain a motion to approve those minutes."

MOTION: That the Planning Commission approve the minutes of August 31, 2000 as submitted.

WARNER moved, **HENTZEN** seconded the motion, and it carried unanimously (10-0-1). Garofalo abstained. McKay and Lopez were not present.

CARRAHER "On the minutes for September 7. Are there any corrections?"

PLATT "I have to abstain because I wasn't there, but can I say something?"

CARRAHER "Unless there is any objection. Okay, yes, go ahead."

PLATT "The minutes state that I was there, and I wasn't."

GAROFALO "I think that Mr. Michaelis' motion was to move that we elect Chris Carraher as Chair by acclamation."

CARRAHER "Yes, I do remember that being the case."

GAROFALO "On Page 7, about two-thirds of the way down where I was speaking, I just want to make a correction at the end of that sentence. It should have read '*to put a little fire under their butts*'. That is what I said."

CARRAHER "I do remember that, too."

GAROFALO "I don't know if this is the proper time or not for this. In regard to that meeting and the question I had about what could we do, but I would say that maybe we need to do something. Maybe we can discuss that later. We should at least write a letter or something."

CARRAHER "Mr. Garofalo, that would be something that we could discuss later on in the meeting. This is strictly for corrections or additions."

OSBORNE-HOWES "I have several corrections to some comments that I made on Page 12. Could I just turn them in? I have them written down."

CARRAHER "That would be fine. Were there any other corrections to the September 7 minutes? Seeing none, I would entertain a motion to approve those minutes as amended."

BARFIELD moved, **GAROFALO** seconded the motion, and it carried unanimously (11-0). Platt abstained.

Lopez arrived at the meeting at 1:36 p.m.

2. Consideration of Subdivision Committee recommendations.

CARRAHER "Do any of these items need to be pulled? Seeing none, I would entertain a motion to approve Items 2/1 through 2/4 of the Subdivision Committee as distributed."

2. Subdivision Committee items 2/1 through 2/4 were approved subject to the Subdivision Committee recommendations.

PLATT moved, **WARREN** seconded the motion, and it carried unanimously (12-0).

- 2/1. SUB2000-54** - Final Plat of BURLESON ADDITION, located on the northeast corner of 21st Street North and Hoover Road.

- A. The Applicant shall guarantee the extension of sanitary sewer and public water services.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. County Engineering requests a drainage plan for review. City Engineering has approved the drainage plan. Any improvements will be required at time of site development.
- D. County Engineering requires complete access control along 21st St. North along with the reduction of the number of openings along Hoover Road to four, by creating a joint opening between Lots 1 and 2.
- E. The joint access easement shall be established by separate instrument.
- F. The bench mark elevation needs to be changed from "130.97" to "139.07" which may adjust topography elevations.
- G. The Applicant shall guarantee the closure of any driveway opening located in areas of complete access control or that exceed the number of allowed openings.
- H. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- I. A Protective Overlay Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved Protective Overlay (referenced as P-O #72) and its special conditions for development on this property.
- J. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- K. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.
- V. The MAPC Chairman shall be revised to reference Christopher S. Carraher.

2/2. SUB2000-78 - One-Step Final Plat of KENDALL 3RD Addition, located west of Hydraulic, south of Harry.

- A. Municipal services are to be available to serve the site. City Engineering needs to comment on the need for any guarantees or easements. No guarantees or easements are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. Since this site's drainage is directed onto the adjacent railroad right-of-way, a letter shall be provided from that railroad indicating their willingness to accept such drainage, unless there is no change of grade within 10 feet of the railroad right-of-way.
- D. Traffic Engineering needs to comment on the need for additional right-of-way to conform with the standard 70-ft industrial street standard. No additional right-of-way was required.
- E. The Applicant shall provide a No Protest Petition for the future paving of Laura, or vacate Laura north of Osie Street.
- F. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- G. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- H. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- I. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- J. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- K. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- L. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- M. Perimeter closure computations shall be submitted with the final plat tracing.
- N. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- O. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.

- P. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.
- Q. The MAPC Chairman shall be revised to reference Christopher S. Carraher.

2/3. SUB2000-79 - One-Step Final Plat of CEDAR VIEW 2ND ADDITION, located on the north side of Lincoln, east of Greenwich, south of Kansas Turnpike.

- A. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. This guarantee shall be with the County for service through the Four Mile Creek sanitary sewer system. County Engineering advises that each dwelling unit will be required to pay a sewer impact fee of \$2,360.79. A sanitary sewer layout plan is required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. The applicant shall guarantee the extension of City water to serve the lots being platted.
- D. The applicant shall guarantee the paving of the proposed internal streets.
- E. City Engineering needs to comment on the status of the applicant's drainage plan. A drainage plan is needed. A minimum pad elevation needs to be platted adjacent to Reserve A.
- F. The right-of-way of the Kansas Turnpike and Condemnation Case number should be denoted.
- G. The applicant shall dedicate complete access control along the Kansas Turnpike.
- H. A minimum pad elevation should be denoted as was platted in the Cedar View Addition unless this requirement has been revised.
- I. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- J. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The use of Reserve A for utilities located within the platted easements should be referenced in the plat's text.
- M. The legal description should delete reference to the southwest quarter.
- N. The corner tie point should reference the "SW corner of the NW quarter".
- O. The section center should be located on the final plat tracing.
- P. A legend should be included on the final plat tracing.
- Q. City Fire Department shall comment on the acceptability of the plat's street names. The northernmost cul-de-sac needs to be revised to Bedford Circle.
- R. For Lots 1-5 and 29-31, the lots exceed the maximum lot width to lot depth ratio of 2.5 to 1. A modification will need to be approved. A modification has been approved.
- S. City Fire Department needs to comment on the length of Bedford which exceeds the 600-ft maximum length for cul-de-sac streets. The length of the street is acceptable.
- T. The applicant shall submit a covenant which provides for four (4) off-street parking spaces per dwelling unit on each lot which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.
- U. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.

- V. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- W. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- X. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Y. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Z. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- AA. Perimeter closure computations shall be submitted with the final plat tracing.
- BB. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- CC. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE has requested additional easements.
- DD. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

2/4. DED2000-24 - Dedication of a Utility Easement from Shannon L. Michaud and James Barry and Jonna S. Ellis, for property located on the southwest corner of Pawnee and Oliver.

OWNER/APPLICANT: Shannon L. Michaud, 11015 E. 63rd Street South, Derby, KS 67037; and James and Jonna Ellis (Moneytown), 2425 S. Oliver, Wichita, KS 67210.

LEGAL DESCRIPTION: A 10' utility easement for a strip of land located in Lot 3, Block 1, Spencer Gardens 2nd Addition to Wichita, Sedgwick County, Kansas, being 10 feet in width for utility purposes and described as follows:

Commencing at the northeast corner of said Lot 3, Block 1; thence S 00°16'20" west along the east line of said Lot 3, a distance of 175 feet; thence continuing along said east line, south 13°45'50" east, a distance of 11.00 feet to the point of beginning of the easement to be described; thence continuing along said east line, south 13°45'50" east a distance of 49.60 feet; thence south 76°14'32" west a distance of 10.00 feet; thence north 13°45'28" west parallel to and 10 feet from said east line a distance of 49.60 feet; thence north 76°14'32" east a distance of 10.00 feet; thence north 13°45'28" west parallel to and 10 feet from said east line a distance of 49.60 feet; thence north 76°14'32" east a distance of 10.00 feet to the point of beginning.

PURPOSE OF DEDICATION: This Dedication is a requirement of Lot Split No. SUB 2000-34 and is being dedicated for construction and maintenance of public utilities.

Planning Staff recommends that the Dedication be accepted.

CHRIS CARRAHER, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning and vacation items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

ZONING:

3. **Case No. ZON2000-00042** - #1 Old Town Development, LLC, c/o Ted Timsah, (owner); Ferris Consulting c/o Greg Ferris (agent), request addition of "OT-O" Old Town Overlay on property described as:

Lot 55, on Douglas, Abbott's Addition to East Wichita in Sedgwick County, Kansas. Generally located on the south side of Douglas approximately 125 feet west of Washington (917 South Douglas).

DONNA GOLTRY, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

BACKGROUND: The applicant is requesting "OT-O" Old Town Overlay zoning district designation. The underlying zoning of the property would remain "LI" Limited Industrial, but the property would become subject to the design and parking requirements of the "OT-O" district. Also, the property could be developed with residences on the upper floors since residential use is permitted in the "OT-O" district even though it would not be permitted in the underlying "LI" zoning absent the "OT-O" designation.

The existing building is a three-story structure that is 25 feet wide with an old grain elevator shaft on the rear. It fronts onto Douglas Avenue and abuts an alley on the south. The applicant proposes to redevelop the building with a small pizzeria-type restaurant on the first floor and three apartments on the second and third floors. The apartments are proposed to be two-story units.

The application area is located across Douglas from the existing "OT-O" Old Town Overlay district, which is bounded by Washington on the east, the BNSF right-of-way on the west, Douglas on the south, and 2nd Street on the north. The Old Town area is one of Wichita's earliest commercial and warehousing districts with identifying characteristics of a strong grid street pattern and a predominate style of red brick Italianate architecture typical of early 20th Century commercial and industrial buildings.

The building maintains some similarity to the predominant style in the Old Town area. It has a continuous façade line along Douglas and common interior walls with the adjoining buildings.

On-street parallel parking is permitted along Douglas. An alley on the south (rear) gives a second means of access, but no parking. The owner intends to meet the on-site parking requirements partially by a shared parking agreement for some of the spaces on a parking lot to the south and partially by participation in the Old Town Parking District (see attached memo). The "OT-O" overlay designation reduces the total parking requirement for a restaurant from one space per four occupants to one space per three occupants.

Nearby uses along the south side of Douglas include a design studio, a boutique (Southwest Studio), The Beacon Restaurant, the Wichita Eagle-Beacon and the historic Rock Island Depot. A parking lot south of the alley is divided between private parking for the Wichita Eagle-Beacon and the architectural office to the south, McCluggage Van Sickie & Perry.

CASE HISTORY: The property was platted as the Abbott's Addition in 1878.

ADJACENT ZONING AND LAND USE:

| | |
|--------------------------------|---|
| NORTH: "LI" Limited Industrial | Commercial shops |
| SOUTH: "LI" Limited Industrial | Parking lot, architectural office |
| EAST: "LI" Limited Industrial | Studio, Southwest Studio |
| WEST: "LI" Limited Industrial | Beacon Restaurant, Wichita Eagle-Beacon |

PUBLIC SERVICES: The site is served by public water and sewer services. The building has access via Douglas and the alley on the south.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide" of the 1999 Update to the Wichita-Sedgwick County Comprehensive Plan does not specifically address this area but refers to the "Development Plan for Downtown Wichita (June 1989)." Similarly, the Downtown Plan does not provide specific land use recommendations for the area, but identified the area north of Douglas as the "Old Town/Rock Island Rehabilitation" challenge.

The Downtown Plan included a goal of mixed-use development, with the objective of introducing lodging, residential and/or recreational activities to areas that were "dead" during non-working hours. It also noted an unmet demand for more urban style, loft housing, and indicated the market could be absorbed by Old Town.

A strategy for residential land use in the 1999 Update of the Comprehensive Plan (II.A.1) is to "use Community Unit Plans, Planned Development Districts and zoning as tools to promote mixed use development, higher density residential environments and appropriate buffering."

RECOMMENDATION:

The "OT-O" designation assists in redevelopment of the property in two ways. It allows the mixed residential/commercial use of the property that would otherwise be prohibited since the base zoning district is "LI" Limited Industrial. It also supports the Downtown Plan goal of providing mixed commercial and residential use in the Downtown area.

The "OT-O" designation reduces the amount of on-site parking required, thus encouraging redevelopment of the property. Since design approval is required for remodeling of the exterior of all buildings within the "OT-O" district, it is recommended that the redevelopment be compatible with the character of the Old Town area, as expressed by the design standards of the "OT-O" district.

While the current boundaries of the "OT-O" district are Douglas, this building is compatible in terms of age of structure and general architectural characteristics.

Based on these factors and information available prior to the public hearing, Staff recommends the application be APPROVED subject to the approval of the building permit by the Director of Planning with the concurrence of the Zoning Administrator in conformance the "OT-O" design review standards of Section III-C.4.d. of the Unified Zoning Code.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area is comprised of a mix of commercial businesses, including other restaurants. All the surrounding land is zoned "LI" Limited Industrial. The "OT-O" district includes all the property to the north across Douglas from the application area. The proposed apartments will be the first residential use on the south side of Douglas between the BNSF right-of-way and Washington, but is supported by the Downtown Plan recommendations for mixed-use loft style apartments in the Old Town area.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with commercial uses without the "OT-O" designation, but it would be required to meet the more stringent parking requirements of the Unified Zoning Code.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The restaurant would be expected to generate greater parking demand on the nearby parking lots in the Old Town area and the on-street parking along Douglas. The nearest Old Town lots are across Douglas between Mosley and Mead, and the lot to the north of the stores on Douglas along Washington Street. It might create pressure on other private parking areas nearby.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change supports the Downtown Plan in encouraging mixed use. It corresponds to the strategy for residential use in the 1999 Comprehensive Plan for encouraging mixed-use developments through the zoning process.
5. Impact of the proposed development on community facilities: The main impact would be a modest increase in parking demand. Since the owner has agreed to participate in the Old Town Parking District, this will contribute financially to long term provision of parking to meet the demands generated by the new development.

GOLTRY "This is a request for an Old Town Overlay designation on some property located on the south side of Douglas, approximately 125 feet west of Washington, 917 East Douglas. The proposed use is a mixed use. The main floor is a restaurant and the upper floors would be apartments. It is located in an area that is zoned 'LI' Limited Industrial. The reason for the request for the Old Town Overlay designation would be: 1) It would allow the residential use to be permitted on the 2nd and 3rd floor and 2) It would allow them to participate in the Old Town parking arrangements, which include the Old Town parking district. You have accompanying information in your packet that they have already been included in the Old Town parking district.

This little building is only 25 feet in width, and it is wall to wall. We have zero lot set back on all four sides. It is against the sidewalk up here and against the alley in the rear. It has common party walls with each of the buildings on the adjoining sides. This would be an expansion of the Old Town Overlay district across Douglas to the south side of

Douglas. It would be the first expansion on the south side of Douglas, but they are immediately adjacent to the existing Old Town area, which goes from Douglas to Second Street, from Washington to the Santa Fe Railroad tracks.

It is in conformance with plans and policies of the Land Use Guide, as well as the Old Downtown Plan that is contained on Page 3. Recommendation is that it be approved, subject to approval of the building permit by the Director of Planning with concurrences only of the Administrator in conformance to the Old Town Overlay design review standards since it would now be part of the Old Town district. I will stand for questions."

CARRAHER "Are there any questions for staff in regards to this item? Thank you, Ms. Goltry. Before we move on to the applicant, I have been asked to ask on the floor if there has been any ex parte contact towards any Commissioner with regard to this issue. Seeing none, we will move to the applicant."

GREG FERRIS "Thank you Mr. Chair. Members of the Planning Commission, my name is Greg Ferris. I represent Ted Timsah, the applicant in this case. Mr. Timsah is here, and if you have any questions for him, he will be available for those.

We concur with the findings of staff and we would ask you to approve this project. We think it is a great project. We do have a letter, but I don't believe I saw it in the packet, so I don't know if you were provided the letter from David Burk. Was that included? It says 'Dear Tim, congratulations on your purchase of this building, located at 917 East Douglas. Your plans for the restaurant and building will certainly be an asset to our area by bringing additional people into the Old Town area. Making your commitment to also live in the building is tremendous. Adding to the base of people living there is one of the best things that can happen to the redevelopment of our downtown. Because of your commitment for a major financial investment in the area and your lack of parking to accommodate that use, I will support amending our parking district to include your building. I look forward to your grand opening. Sincerely, David Burk, Manager of Marketplace Properties'.

We are all familiar with Dave Burk, he owns a considerable amount of Old Town property and is actively involved in the Old Town district. He is supportive of this project and we would stand for questions and would appreciate your support."

CARRAHER "Are there any questions for the applicant in regard to this item? Thank you. Now we will move it to the gallery. Are there any members of the gallery who are wishing to speak in favor of this issue? Seeing none, are there any members of the gallery that are here to speak against this issue? Seeing none, we will move it back to the Commission. Are there any questions or commentary from the Commission in regards to the item?"

MOTION: Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The area is comprised of a mix of commercial businesses, including other restaurants. All the surrounding land is zoned "LI" Limited Industrial. The "OT-O" district includes all the property to the north across Douglas from the application area. The proposed apartments will be the first residential use on the south side of Douglas between the BNSF right-of-way and Washington, but is supported by the Downtown Plan recommendations for mixed-use loft style apartments in the Old Town area. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with commercial uses without the "OT-O" designation, but it would be required to meet the more stringent parking requirements of the Unified Zoning Code. Extent to which removal of the restrictions will detrimentally affect nearby property: The restaurant would be expected to generate greater parking demand on the nearby parking lots in the Old Town area and the on-street parking along Douglas. The nearest Old Town lots are across Douglas between Mosley and Mead, and the lot to the north of the stores on Douglas along Washington Street. It might create pressure on other private parking areas nearby. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change supports the Downtown Plan in encouraging mixed use. It corresponds to the strategy for residential use in the 1999 Comprehensive Plan for encouraging mixed-use developments through the zoning process. Impact of the proposed development on community facilities: The main impact would be a modest increase in parking demand. Since the owner has agreed to participate in the Old Town Parking District, this will contribute financially to long term provision of parking to meet the demands generated by the new development.) I move that we recommend to the governing body that the request be approved, subject to staff comments.

LOPEZ moved, **GAROFALO** seconded the motion, and it carried unanimously (12-0).

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4. **Case No. CON2000-00022** - Faissal Aboy (Owner), Greg Ferris (Agent) request a Conditional Use to allow the

sale of used cars on property described as:

The West 200 feet of Lot 1, Rhodes Addition to Wichita, Sedgwick County, Kansas. Generally located on the north side of West 13th Street between St. Paul and Meridian (2642 W. 13th).

BARRY CARROLL, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

BACKGROUND: The applicant is requesting a Conditional Use to permit used car sales on a platted .66 acre tract of land. The applicant indicates a desire to offer up to 40 vehicles for sale and up to 74 vehicles in the future. The applicant has submitted a site plan showing the proposed use of the subject property. The site plan shows a sales/office building, a display area, employee/customer parking spaces and a gravel driveway along the north property line (see site plan). The applicant will be required to submit Landscape Plan in compliance with the landscape ordinance when securing a remodeling permit application.

This property is zoned "LC" Limited Commercial and is located on the north side of West 13th Street, between St. Paul and Meridian (see map). There is a chain link fence along the north property line. On the site there is a vacant building and paved parking lot that was a Total Petroleum Station for a number of years until it recently closed. The existing building, 35 feet by 8 feet, would need to be remodeled for an office for the vehicle sales use.

Currently the site has two openings along West 13th Street. The Traffic Engineer recommends one opening on West 13th Street with one opening onto Edwards Street to the west. The closure of one access opening along West 13th Street would remove a point of access and still maintain a flow of customer circulation.

The character of the neighborhood is that of mixed uses consisting of a single-family residence and commercial uses. The property north of the application is a residential home and zoned "B" Multi-Family, the property to the south (across West 13th Street) is a commercial restaurant (McDonalds) and is zoned "LC" Limited Commercial; to the east is a strip shopping center and is zoned "LC;" to the west is a bank and is zoned "LC." The nearest auto sales lots are near Douglas and West Streets.

The Unified Zoning Code requires used auto sales businesses to provide customer parking at the rate of two spaces for the first 10,000 square feet and one space per each additional 10,000 square feet of lot area for vehicle sales, display, storage purposes, plus one space per 500 square feet of building area for employee parking. The site plan shows 20,694 square feet for vehicle sales, display and storage, which will require a total of five (5) spaces for customer and employee parking. The site plan submitted by the applicant indicates that there are six (6)-parking spaces.

CASE HISTORY: The current site was platted as the Rhode's Addition in 1956.

ADJACENT ZONING AND LAND USE:

| | |
|--------------------------------|-----------------------|
| NORTH: "B" Multi-Family | Residential House |
| EAST: "LC" Limited Commercial | Strip Shopping Center |
| SOUTH: "LC" Limited Commercial | McDonald's Restaurant |
| WEST: "LC" Limited Commercial | Bank |

PUBLIC SERVICES: West 13th is a four-lane arterial street with estimated traffic volumes of 18,054 (ADT) trips per day. Water/sewer and other municipal services are provided to the site.

CONFORMANCE TO PLANS/POLICIES: The Area Treatment Classification Maps of the Comprehensive Plan identifies this location as a "conservation" area. These areas, which are basically, sound physically and viable economically, would be protected from decline by policies which would ensure population stability, and maintain levels of investments, market strength, and environmental quality and neighborhood character. These areas cover a large portion of Wichita, including not only areas with no apparent threats to stability, but also areas where future viability may be questionable because of encroaching land uses or other impacts. Treatment policies and actions would include continuing strict code enforcement, ongoing maintenance of community facilities and prevention of land use conflicts.

The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas." There are no used car sales lots in the area or between Amidon and West Street along West 13th Street.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be DENIED. The Comprehensive Plan does not indicate that a used car lot would be appropriate for this area, there are not any other vehicle sales lots existing or allowed by zoning in the general vicinity. The commercial uses along this portion of West 13th Street are neighborhood serving and do not involve the outdoor display storage associated with vehicle sales.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The application area is zoned "LC," Limited Commercial. The "LC" district does not permit auto sales without a Conditional Use permit. The site has commercial uses on three sides and a residential use on one side. These two districts do not permit extensive outside display. The area is developed predominantly with lower intensity, small-scale; neighborhood serving retail and service commercial uses. A car sales lot would not be consistent with the character and type of uses located at this site.
2. The suitability of the subject property for the uses to which it has been restricted: The "LC" district permits a wide range of retail sales and less intense uses. It seems plausible that a use could be found for this site that is permitted by the current zoning. West 13th Street carries a high enough volume of traffic and is of a sufficient size to be able to accommodate most smaller scale retail sales uses, office or neighborhood oriented service tenants.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Outdoor storage and display of vehicles is not consistent with the type of development existing at this intersection. Approval of this request will most likely open other sites nearby for additional vehicle sales lots and other "heavier" commercial uses. West 13th Street is deserving of some level of protection against outside display and storage uses, otherwise it will begin to take on a South Broadway appearance.
4. Length of time the property has remained vacant as zoned. This site was an active gas station less than one year ago.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this property as "commercial." The plan contains an objective which states: "Confine highway-oriented, auto-related and non-retail commercial uses to a limited number of urban areas, such as portions of Kellogg, Broadway, the CBD fringe, and other similar areas." The Plan also recommends special attention to the visual quality of key major arterials and West 13th Street is identified as one of these roadways. The proposed use does not match these criteria. This area has no used car lots and if approved could be precedent setting for the neighborhood.
6. Impact of the proposed development on community facilities: Municipal services are available to serve this site, and the proposed use should not generate any more traffic than other permitted uses.

If, however, the Planning Commission believes this is an appropriate use, staff recommends approval be subject to the following conditions:

1. In addition to uses permitted in the "LC" Limited Commercial district, the site shall be limited to the sales of used cars. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted without first obtaining "GC" General Commercial zoning.
2. The vehicle sales lot shall be developed in accordance with the initial site plan, which shows the location for all spaces that will be used for customer parking and the storage or display of vehicles. The required customer and employee parking shall not be used for the display of vehicles. The revised plan closes the drive nearest to Edwards.
3. The applicant shall install and maintain landscaping in accordance with the landscape plan submitted with this application.
4. The site plan shall also be revised to show all parking, storage and display areas paved with concrete, asphalt or similar surface. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
5. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons.
6. There shall be no use of elevated platforms for the display of vehicles.
7. No amplification system shall be permitted.
8. No outside storage of salvaged vehicles or parts shall be permitted in association with this use.
9. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.
10. The applicant shall erect and maintain a solid six-foot screening along the northern property line that is across the alley from residential zoning.
11. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

KROUT "I understand that there may be one or more persons who were not present for the initial hearing on this case, but are present for this meeting. We hadn't attached the minutes of the previous Planning Commission meeting, but we did just pass them out earlier. If any of you didn't attend the last meeting, but you would like to review the minutes and then participate in the vote on this case, I think it would be appropriate. Even if you need a little bit of extra time to read those minutes, that may be appropriate.

If you didn't attend the last meeting and you are intending to abstain because you weren't at that hearing, then I don't think it is an issue. But we want to be sure that anyone who is participating who wasn't at the last meeting has had a chance to review those minutes."

WARREN "I would like to ask Marvin to kind of bring us up to date as the sequence of events since, or is Barry going to do that?"

CARROLL "Yes."

OSBORNE-HOWES "Are you going to ask about any ex-parte contacts?"

KROUT "After the staff presentation."

OSBORNE-HOWES "Okay. I was just curious."

CARRAHER "Just to kind of get the feel of the Commission, is it necessary for us to take a 5-minute break so that members can review the minutes, or shall we just move forward."

MARNELL "I was not present at that meeting and these were just handed to us. I would like to take a minute to read them."

CARRAHER "Unless there is an objection, I feel that it is important to give a few minutes. We will take a 5-minute break. Seeing no objection to that, I am going to call for a 5-minute recess."

Recess taken.

CARROLL "I will provide some background information very quickly--I am not going to rehash the whole case. The site is on 13th Street between Meridian and St. Paul. It was an old Total Station. There is a strip center to the east, a McDonald's to the south. To the north, it is zoned 'B' multi-family.

This case went before the District Advisory Board No. VI on July 10 and they voted 10-0 to disapprove. It then came to the MAPC and you considered it on July 13. After a considerable discussion, there was an 8-4 vote to recommend disapproval. Then it was sent to the City Council on August 8 and they, in turn, returned it to the MAPC for reconsideration. In the interim, Mr. Ferris, the agent, met with the Indian Hills/River Bend Neighborhood Association. As I understand it, the Association took no position to either support or deny it, but some of the members elected to write letters. I think you have been provided letters from two individuals who expressed some opposition to this case. You have also been provided a letter from Mr. Ferris on his position, and we have gotten a revised landscape plan.

To summarize, our position is still the same as it was initially. We are recommending that the case be denied. However, if you vote to approve it, we have eleven recommendations for you to consider. I would be glad to answer any questions you might have."

CARRAHER "Are there any questions of staff?"

GAROFALO "Barry, were you at the City Council meeting?"

CARROLL "No, I wasn't."

GAROFALO "Do you have any knowledge of what was discussed there about this case?"

CARROLL "No, I don't. I think it was simply that Mr. Ferris asked them to return it to the MAPC. That is all the information I have. Mr. Ferris could probably address that."

CARRAHER "Are there any other questions of staff?"

GAROFALO "Maybe Marvin was at that meeting and could enlighten us a little bit. Were you present at the City Council meeting from which they sent this case back to us, Marvin?"

KROUT "It was at the request of the applicant's agent, who wanted an opportunity to meet with the Neighborhood Association. He was not given an opportunity to meet formally with the Neighborhood Association because after the DAB meeting when that issue was brought up, the Neighborhood Association meeting was a day or two after that and they had already scheduled other items and couldn't get him on the agenda. So I think as a courtesy, they sent it back so the

applicant could meet with the Neighborhood Association before returning to the Planning Commission and see if there was any change in your recommendation, based on those events."

BARFIELD "Marvin, correct me if I am wrong. I think I watched that meeting on TV, and I believe that the reason they sent it back was because Mr. Ferris filed an appeal of the decision that we had rendered."

KROUT "Right. The reason it was on the agenda at all--that would have been a final decision because you voted to deny it and that is normally a final decision, but if an applicant submits a written appeal, then we schedule it for the City Council to consider. The City Council, at that meeting, could have overridden your recommendation and approved it. They could have followed the Planning Commission recommendation and denied it, or the third choice, and that is the one they took at the applicant's request, and that was to send it back. The reason it was appealed was because of the letter. That puts it on the City Council agenda. Otherwise it wouldn't have been on the City Council agenda at all."

CARRAHER "Are there any further questions of staff by the Commission on this matter? Okay, thank you. Are there any ex parte contacts that need to be revealed at this time. Seeing none, we will move to the applicant."

GREG FERRIS "Thank you for the opportunity. I represent the applicant in this case. I did ask the City Council to send this back to you for review, and I think Mr. Krout's comments are entirely accurate. I didn't approach any of the Council members and ask them to overturn your decision. I believed it would be more appropriate for me to meet with the neighborhood and then return to you."

Mr. Carroll did make one mistake. They did actually take a formal vote at the Neighborhood Association meeting. There were 27 individuals at the neighborhood meeting and they took a formal vote of 22-5 not to oppose this request with the conditions attached and stated that if anybody in the neighborhood or any of the individuals that they knew or had contact with had specific problems with the Neighborhood Association taking a position not to oppose this, to notify the Planning Department. I believe I saw you received one or two letters from the entire neighborhood. This individual that I see and hear lives a little over half a mile away from this site, and I may be wrong, but I don't believe there is anybody here from the immediate area.

The letter that is in your packet I read through. They speak of the Maude Carpenter's Children's Home. The individual in charge of that children's home was at the meeting and took the position not to oppose this request. So the purpose was to make sure that what I had truly thought was the case was that there was some misinformation and that is why the Neighborhood Association's President was instructed to oppose this at the DAB board and at the Planning Commission that if the case was fully explained and the details of the case were shown and that if I had a interaction to find out if there were other conditions that might make them more comfortable with this situation, that indeed there wouldn't be the opposition that there was before.

I don't know if there is any opposition from the neighbors, I will address that in a rebuttal if there is; however, I believe there is no opposition formally from the Neighborhood Association. I know that because they took the position not to oppose this and it was voted on and received at the meeting.

So that is kind of the why we are here today. Since that time, you have had a couple of other car lots on your agenda, on Meridian. I have a hard time understanding the difference, unless it is the neighborhood opposition between the cases on Meridian and the case that I have before you today. You approved both of those cases, and staff had recommended denial of both of those cases. As I looked at those cases and what had happened with other cases in the past at the Planning Commission, that was another reason in my letter, which you have a copy of, that I sent to Marvin. We appealed this because it seemed that this case was being singled out in some regard to some of the other cases that you have had for vehicle sales.

If you will look at the conditions that we have agreed to in my letter to attach to the staff conditions, they are numerous and they are considerable. Just looking at the landscape plan that you have before you is far in excess of any landscape plan of a car lot that I have seen as I have driven around. We did one at Rock Road and Harry and it is not nearly to the degree that this is. So we think that what we have done is met with the neighborhood and found out their concerns. They had some concerns and we addressed those and agreed to put those in the conditions. I believe that there is no formal neighborhood opposition. There may be one or two neighbors, but there is no one in the immediate vicinity of this.

I would like to also address a little bit the character and use of the neighborhood. One of the things that keeps coming up every time I read minutes or hear discussion about car lots is that these are not neighborhood uses. I think that is not true any more. In the days of the East Kellogg car lots where you put 300 to 400 cars on a lot, that was the case. But what is happening now is that people are using smaller lots for a neighborhood oriented car lot. Nobody is going to drive from east and south Wichita through all of the car lots over there, the west car lots to come to a neighborhood that is going to have 30 or 35 cars on a car lot. This is now a neighborhood use. It fits with this neighborhood.

This is an entirely retail neighborhood. With one corner to a little bit of a distance, there is an apartment complex and another one is a chiropractor. Almost without exception, it is a neighborhood use. There is retail. There are laundry facilities, there are car washes and I think that a neighborhood oriented, well-landscaped, well laid out, well designed, well maintained neighborhood car lot fits exclusively into this kind of a neighborhood. And to say that the only kinds of car lot sales that we are going to allow is someone who can afford to own a lot and have 200-250 cars on that lot I think is a little discriminatory. Second I don't think it is good business practice. It is what we normally view as how we approach business, at least in Wichita. This is a small business community, and this is a small business and that is how it fits in.

This is a little bit of an unusual lot, the way it is laid out in between these two with the alley and the vacated street, and some of those issues. There may be other things that can be done here at a fairly high expense of redoing and reconstructing buildings, and new buildings--those kinds of things. The problem is that this is not a neighborhood that is really suited for high-end retail, something that would take the kind of investment that it takes to accomplish those kinds of things in this area. You basically have a strip center; you have a McDonalds that has been there for quite some time. I firmly believe that under McDonald's new guidelines it wouldn't even be able to even be located in that mid-block location. You have car washes and those kinds of facilities. Very small, very neighborhood friendly. That is what the applicant has intended to do here. That is why he is spending, frankly, triple what would normally be expected on a Conditional Use for a car lot on a residential street-type area. Thirteenth Street is kind of a semi-residential, semi-arterial as you get further to the east across the river; it has a little different feel. There was a lot of discussion about the 13th Street crossing and how it might impact traffic here. The letter even talks about more traffic and noise and those kinds of things. This is not a use that generates traffic. In fact, it reduces traffic. It isn't going to have any impact one way or another whether the 13th Street bridge is completed or not.

This is a neighborhood use in a neighborhood situation. It is a Light Commercial, and car lots that are well done are allowed in Light Commercial under certain conditions. Those conditions should be 'does it fit'? What we have attempted to do, in the landscaping and the design and the restriction of the hours and the restriction of the number of cars that can be allowed on the lots, and those kinds of things, is that we have attempted to make it have conditions that fit into this area. Therefore, you should vote to approve this, subject to the staff conditions and the conditions that we have voluntarily considered. There is one exception. It is not a big sticking point. Staff has recommended the closing of one driveway to go onto a vacated street. I am not sure that that is entirely appropriate. We would like the conditions approved without that restriction, and in the event that staff and the applicant can work out these details as far as how to access this vacated street, then I am not sure we have a big issue with it.

Other than that, we concur with all of the conditions has put on there, we are also willing to go well beyond that and add the list of conditions that we added to that. I would be glad to answer any questions."

BARFIELD "Mr. Ferris, can you tell me on what date and which Neighborhood Association you met with?"

FERRIS "Yes. We met with the Indian Hills River Bend Neighborhood Association on September 12."

BARFIELD "Now we have a little bit of difference. Mr. Carroll said they didn't vote and decided not to take any action one way or the other. Your interpretation was that they did take an action. We have here, of course, a letter that identifies the writers as members of the Indian Hills River Bend Neighborhood Association, and they are, once again, requesting denial."

FERRIS "You are correct, Mr. Barfield. Those two individuals were at the meeting that night. They were two of the five people who voted to recommend that the association take formal action to oppose. There was a motion made to take formal action to oppose this. It failed. Then they made a motion whether or not they should take no action and not oppose this, which is what they said. They didn't say take no action. They said should they take no action and not oppose it, and the vote was 22-5. These two individuals that you have noted that did send a letter, there was another individual that I thought was going to send a letter. I sent him the conditions in a letter--he asked me to do that, and I don't see that he sent a letter, so maybe he was satisfied. He had indicated to me after the meeting that he intended to oppose this, as well. There were five people at the meeting and two of them are in a letter form here to you. But there is no question that they took a vote that night. I was there."

BARFIELD "All right. As a follow-up, you mentioned in your comments that this would reduce traffic. Can you explain that?"

FERRIS "I didn't say it would reduce traffic. I said that over other Light Commercial uses, this is not a high traffic generator. Used car lots are very low traffic generators. I think your staff will concur with that. If you have a General Light Commercial use of a retail establishment of some kind versus a car lot, a car lot will virtually always generate less traffic than the Light Commercial use."

OSBORNE-HOWES "I have a couple of questions. Do you know what the Neighborhood Association boundaries are?"

FERRIS "I believe they go to Sheridan on the west, the river on the east, the river on the north to where it intersects Sheridan...the river bends over there, and McLean on the south, I think. Wait, I think I might have that.

They are from the intersection of 13th and Sheridan, and proceed north to the Arkansas River, southeast along the river to 13th, and then west to Sheridan. I guess 13th is actually the boundary. It is everything to the north of 13th."

OSBORNE-HOWES "Okay. And then my next question is that you talked about that nobody shops around or drives around different parts of town looking for cars. There has been some research done that says that they do that a lot. In American Demographics magazine they talked about that. They did a big article on car buying habits not long ago. I pulled it up for a class, not for this. That is how I happened to know that. When you said that nobody shops around, I wondered if you had some research that showed that."

FERRIS "Ms. Osborne-Howes, I know your background, and I certainly would not dispute that with you if you say that. I do not have any data, just the people I talked to. If you have research, I would not argue with that."

OSBORNE-HOWES "Okay."

CARRAHER "Are there any further questions of the applicant? Okay, we will open it up to the gallery. Are there any members in the gallery here to speak in favor of the item? Seeing none, are there any gallery members here to speak in opposition to the item? We will move it back to the Commission."

BARFIELD "Marvin, am I correct in making the assumption that staff has looked at these new conditions and you are still in favor of denial?"

KROUT "Yes, we are still recommending denial. I would like to have the chance to elaborate on a couple of items."

CARRAHER "Go ahead."

KROUT "There was mention of the two cases at Meridian and Harry and Meridian and 31st Street. The case that you approved at Meridian and 31st Street, just for your information, was protested by two adjoining property owners and was later withdrawn by the applicant. So that use is not going in. There was neighborhood opposition and the District Advisory Board was opposed to that case. So it was pulled by the applicant based on that opposition before it went to the City Council.

Whether or not a small car lot is neighborhood serving or not, the other point that we have tried to make about car lots is that they tend to attract other car lots, just like some uses tend to attract other uses. When you begin to have more concentration of car lots, then if that initial car lot was more neighborhood serving, the concentration of small car lots becomes something that is not neighborhood serving also. I don't think that we are discriminating against small car lots, we are just saying that there are certain locations that are more neighborhood serving where they don't belong. There are other locations where there are heavier commercial areas where these car lots are already established where it is more appropriate.

The last thing I want to say is if there is a recommendation to approve this, and I know you have had a discussion with Barry about it, Greg, and I hope that we can reconcile some of the discrepancies on the site plan and between the site plan and the landscape plan together."

FERRIS "I think Barry and I have done that."

CARROLL "I think there is probably some work to do."

KROUT "I think there is probably some more work to do, so if there is a motion, if you would make it subject to a revised site plan and landscape plan."

MICHAELIS "Is the site plan we were just handed out a revised one?"

KROUT "That is revised."

MICHAELIS "So there are still some corrections to be made to this?"

CARROLL "I think there still needs to be some specificity to it."

OSBORNE-HOWES "When I learned that this was coming back, one of the things that I did was to drive around the city a lot and tried to look at smaller car lots and think about where I thought would be appropriate locations for them. I think Mr. Ferris always does such a good job of doing his homework and puts such a good spin on things, and I always think small car lots have really been around a long time before large car lots, and there are a lot of them you can look at.

I think over time we have tried to ask ourselves where those appropriate locations are. I have looked at some and tried to ask myself what is the difference between a car lot and other types of commercial uses. In terms of the visibility and in terms of watching--I got behind some people who were driving slow to look and I saw some congestion as part of that. Really, in some ways, I think they are much busier.

I also drove on West 13th and I realized that there is at least one other vacant lot, a little bit west of there that I thought 'that could be a car lot, too'. If we say that one car lot does not necessarily lead to another, I think it probably does. I think we have to ask ourselves if a car lot goes in there, where would it not be allowed to go. What streets would it not be allowed to go on? I can't think of many, so I think this will really open up a significant number of lots all over town, and if we vote for this, we will have to vote for them. And maybe that is okay.

I thought long and hard about this and I did not automatically say 'gee, I am going to stand firm'. I really did some thinking about it, but I just don't feel that this is the right location, so I will continue to be opposed to it."

WARREN "I spoke to this when it was before us last, and the points I think that I agree with Mr. Ferris on, and maybe tend to disagree with Commissioner Osborne-Howes is that I think part of the problem is within our perception. We have this

perception of a used car lot as being that of, and I always pick the one at 47th and Hydraulic because it is probably the ugliest one I can think of, and that is what we perceive it to be. I think we need to get up to speed to say that with our ability to regulate, restrict and control, that we can fabricate within our minds and in reality, an automobile sales lot is not offensive. I think this is where we need to be. We need to take another look at what we think of as an automobile sales lot. I think they can be very 'neighborhood'. We have some out in the area that I live in in Derby and they are very attractive, right down our Main Street. We do have some that are as ugly as sin, but we have some that are very attractive, too, and that would blend in very well with the neighborhood.

So I think those car lots we have had in the past, that we found offensive were those that were put in without restriction, regulation and control. Here we have an application, willing to accept the restrictions, regulation and control to make this conform with an attractive business in a neighborhood. So I am going to support this at this location."

LOPEZ "I am looking at it from the standpoint of not a perception of a car lot. That is not how I look at it. I look at it from the standpoint of is this is area that might be acceptable for the use of a car lot, and that particular business? I agree with Commissioner Osborne-Howes that once we put one in, I think we open it up for the rest, and it isn't a perception of a car lot, it is the use in the area."

WARREN "Yeah, I think you could use that criteria with the McDonald's. I think you could use it with that strip center across the street. Is it a place for that? The fact is that they are there. The fact is that this does have commercial and it is heavier than what we are talking about. I guess we have to look again back at Ninth and West Street when the courts reversed us and said 'you guys better have better grounds for denial than what I am hearing'. I don't think we have grounds for denial. I really don't think we have them."

BARFIELD "When I look at this is, this is a little different. I have voiced my opposition before to having car lots in the middle of the block. The fact of the matter is that we must, and we haven't done it, I remember the car lot that was, I believe, in the 600 or 700 block of South Broadway that was approved, in the middle of the block. When you look at the traffic patterns, you cannot park on either side of Broadway, so someone coming down there to look at an automobile, they are going to slow down, they are going to back up traffic, and I think we have to look at, once again, the safety factor.

I see the same thing here on west 13th Street. It is the safety factor. This is not at an intersection; therefore people cannot park in one particular area and walk to see. They drive by, they slow down. I think we are all familiar with west 13th Street and we know what the traffic is like there. I think that is something we certainly have to take into consideration. That is, I think, in my own opinion, is a justifiable reason for denial."

OSBORNE-HOWES "I just want to take off on what Mr. Warren said when he referred to Ninth and West Street. Correct me if I am wrong, Marvin or staff, but I think one of the reasons that was overturned was because there was some case that was made that there already is one in the area. So when I think about that, I think if we okay this, then there will be others in the area. I think that is exactly why that one was overturned, or at least that is what I remember."

KROUT "I remember hearing the judge's decision, and I think that one of his primary reasons for overturning the City in that case was he looked at the entire corridor between 13th Street and Kellogg, whereas we were looking at the area between Central and 13th Street. Given that, and also given the heavy automotive related character of other uses already established, even north of Central, that he didn't see that this would be out of character of the area. So he was pointing to other car lots and other automotive uses along that corridor."

JOHNSON "Marvin, is there any way to determine, and I don't disagree with the comments that has been made by the Commission members here, but I guess where I am coming from is I don't know how long that station has set there like that, but it has been a long time. I drive 13th Street a lot. We are talking about trying to redo some interior parts of the City so that they are not moving farther out west. I will tell you what I have found here recently right across from Rest Haven, and it must be just out of the City, so they can't be ticketed, but there must be 35-40 cars set there for individuals with all kinds of signs and all kinds of junk, and they set there where people are coming into the City of Wichita.

So all of a sudden you've got somebody that is willing to do a little better landscaping, has met with the neighborhood and yes, it could happen down the street, but again, if somebody sets a good example, maybe we will end up with two better looking ones than we have coming into the City of Wichita. I guess I am curious to if there is a way that anybody can look at taking some area that has been in the City for a long time that has really kind of gone downhill and at one time, a number of years ago, 13th Street in that area was a nice area. Do you have any comment to that, Marvin?"

KROUT "My comment would be is that the west 13th Street shopping district is a very nice area, and according to our staff report that you received the last time, this station has only been closed for six months. I don't think this is a situation years of where no other uses are able to come to light. I think there are lots of examples around the City that you could point to of closed service stations that have been turned into other uses other than car lots."

JOHNSON "So you think that has only been closed for six months?"

KROUT "Isn't that what our staff report says?"

CARROLL "I was thinking that it was closer to between one and two years is what I was thinking."

BARFIELD "I believe, and if you look here at the minutes from the last meeting, it says this was just closed recently. I believe that I heard Mr. Ferris say, at the last meeting, that this had been closed for a period of about six months, if I am not mistaken."

KROUT "We say less than a year ago, I guess."

CARRAHER "Is there any further commentary?"

WARREN "Are we ready for a motion?"

CARRAHER "I am opening to entertaining one."

WARREN "Everything that I have been hearing here has to put the crux of this matter, again, back on perception. Because all of the objections I am hearing are saying that car lots are undesirable. That is the difference, I think in the opinions we have here. Are small, well-regulated, well-landscaped car lots undesirable, or are they not? I just have to choose that they can be a very user-friendly, neighborhood-friendly type business. With that in mind, I am going to make a motion."

MOTION: I move that we recommend to the governing body that the request be approved, subject to staff comments and to the review of the advisability of the street drive closing.

WARREN moved, **JOHNSON** seconded the motion.

JOHNSON "I would like to clarify something. I seconded the motion, but I would like for the applicant to meet with staff with a staff plan and make the necessary changes."

AMENDED MOTION: I move that we recommend to the governing body that the request be approved, subject to staff comments and to the review of the advisability of the street drive closing and to a revised site plan.

WARREN moved, **JOHNSON** seconded the motion.

MARNELL "Does that also include the voluntary conditions that the applicant put on it?"

WARREN "Yes. That would be reflected in the final site plan."

BARFIELD "I would like to make a substitute motion. But first, would it be proper for me to address Mr. Johnson's question?"

CARRAHER "Yes, I will allow that."

BARFIELD "From the minutes of the last meeting, Mr. Carroll here stated that the station had been closed for approximately six months. For a number of years, it was a Total gas station and was vacated about six months ago. I am making my motion based on the fact that it has nothing to do with the appeal of car lots, but the location of the car lot."

SUBSTITUTE MOTION: That the application be denied.

BARFIELD moved, **OSBORNE-HOWES** seconded the motion.

CARRAHER "Now we are on the issue of the substitute motion. Are there any questions or commentary in regards to the substitute motion that is on the floor. Seeing none, we will move into a vote on the substitute motion. We will do a roll call vote."

VOTE ON THE SUBSTITUTE MOTION: The vote resulted in a moot vote with 6 votes in favor (Osborne-Howes, Platt, Warner, Lopez, Garofalo and Barfield) and 6 in opposition (Marnell, Johnson, Warren, Carraher, Michaelis and Hentzen).

CARRAHER "The motion fails. With that in mind, we have a motion on the floor in regards to approving, with the amendments. So are there any questions or commentary with regards to the original motion? Then we will move it to another roll call vote."

VOTE ON THE ORIGINAL MOTION: The vote resulted in a moot vote with 6 votes in favor (Johnson, Michaelis, Warren, Marnell, Hentzen and Carraher), and 6 in opposition (Platt, Lopez, Osborne-Howes, Barfield, Warner and Garofalo).

CARRAHER "That motion also fails. I will just put it out to the Commission on what they want to do next."

PLATT "I think a tie vote is a vote to deny."

CARRAHER "You are right, the point is well taken."

KROUT "A tie vote is failure to approve."

PLATT "Yes, that is right, failure to approve."

WARREN "Is it likely now, and I suppose it will be up to the applicant, whether this goes back to the City or is that an automatic thing once they send it back to us?"

KROUT "I think we should ask the applicant's agent that question. He did state in his letter that if the Planning Commission failed to approve his request that he would not go on to City Council. He would withdraw it."

WARREN "A 6-6 vote might change that."

FERRIS "Thank you, Mr. Chair. No, I am not intending to take this to the City Council. I would prefer, since you were unable to decide this, that you would maybe defer this action. I have a little problem. It is funny, I have been to a lot of small cities lately doing zoning cases, and they have a little different protocol. Mr. Krout made some misstatements. No offense, Marvin, but I have the lawsuit in front of me, and you certainly misstated. I don't know if that impacted some of the thoughts or not with the Commission. So I would prefer that you would defer this item for another couple of weeks to perhaps have the other two members that are currently not here here. Are you at full strength now? Okay, you are just missing one."

In the event that you would have an odd number, it may have a different outcome. It obviously would have a different outcome if you had an odd number. But I do not want you to send this back to the City Council. I will not appeal this to the City Council, but I do believe that it should be deferred until your next meeting, at which time you could just take a vote without any comment or handle it however you would wish at that time."

CARRAHER "Mr. Krout, would you like to respond to that?"

KROUT "Since we have let the agent speak and he feels that there was a misrepresentation made, I would suggest that you give him the equivalent of rebuttal time to make his case, and see if that would result in any change in anyone's opinion on your previous vote."

CARRAHER "Unless there is any objection, I will allow that right now."

LOPEZ "I object. We have made a vote. Now, you talk about protocol. We made a vote and it was for failure to approve. Period. I think we need to move on to the agenda now. If you don't agree with that, call down Legal, but we stop the discussion now, because we voted to disapprove."

KROUT "You could reconsider..."

CARRAHER "Is that a request, Mr. Lopez?"

LOPEZ "I am asking you. Well, yeah. Call down Legal to get an opinion on it."

CARRAHER "Okay. I just wanted to make sure that that was your request."

JOHNSON "I probably don't disagree with you, but if that was the final decision, we should have never asked the agent to come back to the microphone. So now that we did, I think we've got a different issue than what we had before."

BARFIELD "I would just like to remind Mr. Ferris that your suggestion that we put this off for two weeks until that one member is here--and I don't know if he would change his mind, but I would inform you that he did vote against this the last time."

FERRIS "I understand that."

WARREN "We've had a precedent not very long ago with this same situation. I think it was an electric company behind a bar over on Seneca, and we did take a vote and then decided to defer it and went for two more weeks and then reheard the case. That has been about 90 days ago. It was that electrical contractor behind a bar, I think."

KROUT "I remember that case and I remember that it was deferred, but I don't know that it was because of members who were here or weren't here. It is very rare that we have 13 people here, so I am not sure that you want to set a precedent of deferring votes every time you don't have 13 people here."

MICHAELIS "I would just like to make a general comment. I don't disagree with any of the comments that have been made here today, but personally, I think it is our job to try to make things happen in some way, shape or form, and I don't think a tie vote on anything is making anything happen. It is not saying that we approve it, it is not saying that we disapprove it. If it is just a question of hearing more testimony or a little different testimony or getting some clarifications on some things, I don't think that is out of line. I think we sit here a lot of times and listen to a lot of different things, and I

think that is our job. It is not just a question of that we are for it or we are against it and we move on. I think it needs to be fair, and I don't like anything, just because it is a tie it is a certain way. Those are my comments."

MARNELL "I don't know that this will add a lot to it, but Mr. Warren, I think I remember that case you mentioned. The applicant didn't understand the difference between the two types of zoning and we deferred it to give him a chance to see if he wanted to accept the lesser zoning that we gave to it. I think that may have been why we reconsidered it and gave him the deferral."

HENTZEN "I think that is right."

OSBORNE-HOWES "I guess my comment would be that regardless of whether we voted for or against on these motions, this is the second time we have heard this, and it has been sent back to us."

I think it is correct that the applicant said, based on our decision if we voted to deny, that he wouldn't appeal it. Maybe a tie means denial, I think it does in Robert's Rules of Order. At some point I guess that I am embarrassed that we are continuing on with this and that the applicant was even asked to come up and is saying let's defer it so we can take another vote. I guess I feel that if somebody reads this, I am really embarrassed about this. From my perspective, I think we have made the decision. Have we made things happen? Yes, I think we did by our vote. That is what we do here. We have listened to this twice and I believe we ought to go on with the next agenda item. I think we are done with this."

CARRAHER "Mr. Lopez and Ms. Osborne-Howes, you have both made good points. The reason why I was giving some leeway here is that the Planning Director thought there might have been some extenuating circumstances and with that in mind, I thought maybe some leeway might have been in order. Now, with the decision of the Commission, that may not be the case. But seeing as how he believed that there were maybe some extenuating circumstances, I deferred to his professional position as the Planning Director to see if maybe some reconsideration was in order. If it is not, then we will move on."

HENTZEN "Mr. Chair, in the overall view of this thing, have we given the applicant and his agent a fair chance to come before us, etc.? I believe we did. I believe that their case has been heard and the vote we took denied their request. I don't like the idea of saying 'well, since you have denied this, let me come back when somebody else might be here'. It takes 8 members of this Commission for a majority, I believe, well, 7 right now because we are at odd numbers. I hope we don't get to the point to where every time somebody loses something we say 'let's defer it again and come back and see about it'. I think if we take a vote with a proper quorum, it is a vote. That is the answer. I think we would just have everybody coming up and doing that. I think they had a proper hearing, got to state their case, and I think we ought to live with the decision."

CARRAHER "With the points that have been brought up by my colleagues and as well as the evidence on hand, I am going to rule that we are going to move on with the agenda, that proper hearing has taken place. We have dealt with the issue twice, and that is my decision. The floor is open if anybody wants to object to the decision of the chair. With that in mind, we are going to move forward with the agenda."

FERRIS "Mr. Chairman, I have no problem with that. I understand. I have been here before and I will be here again. I have also sat in your situation in a little different body. Mr. Hentzen, I do not disagree with your statements. I do not agree with your decision, but I will respect it."

5. Informational meeting on the Northwest Wichita Traffic Congestion Study.

JAMSHEED MEHTA, Planning staff "This is about the major investment study. In 1994, the Planning Department obtained the services of Booker and Associates to undertake a Major Investment Study (MIS). One year later, in 1995, the final report was completed and presented to this body and the governing bodies. The report is called the Northwest Wichita Traffic Congestion Relief Study. That is quite a mouthful, but the key operative words, I guess, have to do with the fact that it is for traffic congestion relief. It had three specific project conclusions, while there were numerous alternatives that were examined. The final conclusion revolved around three major project objectives."

No. 1, build a 13th Street Bridge across the Wichita/Valley Center Floodway and while it would have impacts associated with what happens to the neighborhoods, there was a recommendation to do the best that would mitigate such impacts.

No. 2, to widen Zoo Boulevard, including the interchange section and the bridge over the Valley Center Floodway. Some of those recommendations of this project have been implemented jointly and then also separately between City and State and City and County. Not entirely all of the recommendations for that particular aspect for Zoo Boulevard were implemented, but some of them were.

No. 3, to build a 25th Street Bridge across the floodway at a later date, depending on future growth in the northwest area. The City of Wichita is currently engaged in the design of the 25th Street Bridge.

Back to Project No. 1. The City of Wichita decided to do nothing regarding 13th Street, at least between 1995 and approximately 1997-98. In 1998-99, we the Planning staff were sufficiently along in our long-range transportation

modeling, compared to the 1995 study that was based on data even for the 5 years prior to that. Our update process included the growth of the northwest through the 90s. That was not captured in the previous studies.

Our findings in 1998-99 indicated the same problem--the lack of adequate capacity to cross the floodway. We are looking at a horizon year of 2030. In July of 1999, last year, this subject was revisited in a combined meeting of the City and the County, the two governing bodies, and since then, the City has hired Parsons, Brinckerhoff, Quade and Douglas--now it is a newer name, it used to be called Brooker and Associates, to essentially to update the M.I.S. They will share with you their findings, using new data, using the same base year and the horizon year as you have in the newly adopted Comprehensive Plan and the Transportation Plans.

Now, in the Transportation Plan, based on the information and the analysis that the staff provided you over the last two years, you have both a 13th Street and 25th Street bridge included in the adopted plan. For the 25th Street bridge, the plan also goes along to say 'that it is not justified until the later years of this plan', but they are both intact projects in the plan today.

Based on what you hear today from the consultant, if you feel that you need issues to be re-examined or if you wish to amend anything in the existing plan, it would take a separate meeting because we would have to set up a separate meeting to do it officially with public notice if you are making any changes to the plan at a later time. If you take no action, now or later, then the plan stays as is with both 13th and 25th Street in tact. With that, I will introduce you to Mr. Raja Gowindaswami, who is the principal behind the study of M.I.S. He will go through his presentation and findings of the alternatives."

(See attached report)

6. **Amendment to subdivision regulations regarding platting exemptions (continuation from September 21, 2000 MAPC meeting.**

KROUT "We are going to ask you to defer this item again. On Item No. 7, you could take it up today or you could decide that you would like to make that one of the discussion items in a retreat. That may be an appropriate type of item for a retreat discussion, and that would then give us some more time to work with Advance Plans on the zoning amendments, which follows this meeting. That is actually my recommendation to you, but if you want to discuss Subdivision notification, we can do that."

CARRAHER "Okay, I will just open it up to the consensus of the board. What are the thoughts of the Commission in that regard?"

GAROFALO "Marvin, what kind of time frame? Is this item something that has to get done right away?"

KROUT "No, we are suggesting that you defer it for two weeks. We have gotten comments from the City Attorney's office, but not from the County Counselor's office and we want to make sure that we have them both together before we bring this item back to you."

CARRAHER "Would there be any objection to deferring Item No. 6 for two weeks? Without any objection, we will defer that for two weeks."

7. **Notification on Subdivision plats**

CARRAHER "I believe the discussion on this item was whether or not to have this as part of an item for discussion during the upcoming retreat."

MICHAELIS "I would recommendation that we discuss this as part of the retreat. I think it is one of those things that is going to require a little input, a little thought, and a little diversity."

MOTION: That the item be deferred from this agenda and included in our retreat agenda.

MICHAELIS moved, **JOHNSON** seconded the motion, and it carried unanimously (12-0).

8. **Discussion on items/location/date/time for MAPC retreat.**

KROUT "Maybe you want to see what items any of you had thought about, so that we would know how long then we would need to schedule this retreat for. The only other item that we heard from the Planning Commission, either from Commissioner Hentzen or Warren, was the issue of ex parte contacts, conflicts of interest, or something on that order--

that you wanted to go over that again. You thought we could bring in the Law Office on that discussion to help with that, and we would be glad to do that. So we have at least two items on the agenda and I guess maybe the Chair would like to find out if there are any other items that people want to talk about."

CARRAHER "So far we have ex parte discussion, subdivision plat discussion, and if I remember correctly, Mr. Warren had some issues in regards to some of the By-laws that we currently have, correct?"

WARREN "I think that is what Marvin was talking about."

KROUT "Yeah."

CARRAHER "Do we want to broaden that to By-Law issues in general, or do we want to limit it to ex parte issues? I am just kind of opening this up to the Commission to brainstorm."

WARREN "It wouldn't hurt to review them. The only one I had questions about in the By-laws was that one."

GAROFALO "Is there any way that we could discuss the agendas as far as, and I don't know how you would control it, but for example, this agenda is pretty sparse considering that two weeks ago we were here until 7:00 p.m. So can we see if there is something that could be done about how much stuff is piled into one agenda."

KROUT "Do you mean that as part of the retreat we talk about the overall organizing of the agenda? Yeah, we can talk to you about it. We have sort of a policy that there is a cut-off after a certain number of cases, but we really do hate to delay anybody who is in the process. But we could talk about the mechanics of the meetings and the length of meetings and what we could do to improve on that."

CARRAHER "I am titling this 'agenda limits and standards'. Is that kind of what we are looking for?"

GAROFALO "Agenda discussion."

CARRAHER "Okay, that is good. Are there any other issues that any one of you would like to make part of our retreat?"

OSBORNE-HOWES "I don't know if this is a good idea or not, but I know that there are some cases that we tend to have where we are more polarized on. We have different points of view, and usually we really can't talk about it much because we are in the midst of an agenda item. It would be really nice to maybe identify some of those so that we would have time just to talk about it."

KROUT "Kind of like we talked about metal buildings one afternoon?"

OSBORNE-HOWES "Yeah. I know we talked about that and it was great. But I mean there are other things, like car lots. There are other things that would be very nice to talk about without doing it up here when we have applicants watching us. Like a planning session relative to some of the issues that divide us perhaps."

KROUT "Are there other topics?"

GAROFALO "Storage facilities."

JOHNSON "Car washes."

OSBORNE-HOWES "Outside storage."

KROUT "What about mobile home parks?"

WARNER "Manufactured homes."

LOPEZ "What about East Wichita."

KROUT "Yes. It is probably premature, but it is in our work plan that we were going to take a look at this and we haven't really yet, but we are hoping that through this South Wichita Plan they will get to it that way."

OSBORNE-HOWES "I don't know about this, but the floodway, or the building in the flood plain issues. Would those be good?"

KROUT "Yeah. I suggest that that is one that you could defer until we have the Cowskin Creek consultant come back. He is going to talk about development standards for flood plain management. That would probably be a better time to do that."

OSBORNE-HOWES "Okay."

MARNELL "One thing we hear often from people who show up here is the whole notification process. Is that already on this agenda? If it isn't, I think we might want to put it on."

KROUT "The notification process? Besides that issue, we need to talk about Subdivision."

GAROFALO "This retreat is getting longer and longer."

CARRAHER "Okay, so far we have a number of issues. We are not going to just limit it to this, but I have car washes, car lots, flood plain issues, the notification process. Are there any other pertinent issues, or shall we just move on?"

OSBORNE-HOWES "I was also thinking outside storage. You know how they talked about 10% or 20% extra."

KROUT "Are you talking about self-storage or outside storage."

OSBORNE-HOWES "Outside, but we can talk about self-storage, too."

KROUT "The Advance Plans Committee is going to meet to talk about outside storage because we have this request from the portable storage container industry. So I think that would probably be a good place for that discussion."

LOPEZ "This isn't something to add to the agenda. My question is the location."

CARRAHER "Okay. We will be getting to that in just a minute."

KROUT "My staff had a couple of suggestions. I asked them for suggestions about discussion items. One of their recommendations was to talk about public involvement and the planning process and how we could improve on it, and the second was to talk about the composition of the Planning Commission and whether or not that was something you wanted to look at as part of the By-Laws."

CARRAHER "Composition, how so?"

KROUT "How people qualify to come on to the Planning Commission."

CARRAHER "Okay. Let's go to location. I know that one of our members made a suggestion in regards to the location. Mr. Warren, do you want to expound on that?"

WARREN "I have offered to allow the Warren farm to be used. A number of groups use it for this purpose, such as Tim Witsman and the Wichita Chamber of Commerce. The County Commission has used it for that also. It seats about 100 and nobody bothers you."

KROUT "Would there be a charge?"

WARREN "No. Not unless you have a lot of money. We could have it catered, or we can cook out, whichever you want."

OSBORNE-HOWES "I didn't hear where you said it was."

WARREN "It is about 2-1/2 miles southeast of Derby on 95th Street, just east of Rock Road."

CARRAHER "It is a very nice place. I have been there."

JOHNSON "Yes, it is a nice facility."

HENTZEN "I tried to get your attention on the last item of the agenda. Since Marvin brought up the subject of the make-up of the Commission, I would like to add to that the term limits of the people on the Council."

CARRAHER "Okay. Let's not dive into that discussion now. That is something we can do during the retreat."

HENTZEN "I understand, but since he brought that up, I would like to have it expanded on."

KROUT "I didn't hear that there was a consensus on the items I brought up. It sounded like we were just moving on."

HENTZEN "I thought he wrote them down."

KROUT "Maybe what you want to do is to let the Chair decide what the agenda should be after your discussion."

CARRAHER "Okay. I guess we have determined the location. I appreciate your offering your meeting place, Mr. Warren. We will look forward to having it down there. Also, we need to look for a date and time. Mr. Krout, do you have any ideas on that?"

KROUT "We have done retreats in the afternoons; we have had some special workshops on Saturday mornings. Both of those have worked out pretty well. You might want to look for a Thursday afternoon where we don't have anything scheduled like the Planning Commission or Subdivision. We might have a Thursday or two like that. Friday is usually a better day for the staff in terms of being able to get out."

GAROFALO "Marvin, what are you thinking in terms of staff?"

KROUT "I would like to be able to have at least the division heads come to the retreat."

MARNELL "How much time does staff need to prepare for this, before we look at these dates?"

KROUT "Three or four weeks at the most."

JOHNSON "Marvin, do you and Central Inspection and everybody meet every Friday afternoon?"

KROUT "Well, I don't anymore. Dale and his division do meet on Friday afternoons, yes. Thursday, November 2 is an open date for the Planning Commission--is that a Subdivision day?"

MILLER "Let me go check real fast. It seems like we only had one."

KROUT "October 26 or November 7 might be a good day."

CARRAHER "Would everybody be okay with one of those Thursdays, as soon as Dale finds out which Thursday isn't open?"

WARREN "Are you thinking about a Thursday for the Warren farm?"

CARRAHER "Yes, either October 26 or November 2. We are trying to find out which date is the open date."

WARREN "I will call and see if it is open."

OSBORNE-HOWES "Could I suggest that maybe we start with a lunch and then go through the afternoon?"

CARRAHER "That sounds like a good suggestion."

WARREN "Both of those dates are open."

CARRAHER "Great."

GAROFALO "I am going to be out of the Country on October 26. I hope to be in Italy."

MILLER "There is Subdivision on November 2."

KROUT "Okay."

CARRAHER "Our apologies to Mr. Garofalo, but October 26 would be our best bet."

KROUT "And then the next one after that would be November 16. That would be another possibility. It is another open date for the Planning Commission. We only have one Planning Commission hearing scheduled for November 9. November 16 would give everybody a little more time to plan."

LOPEZ "I can't be there then. I already have something scheduled."

MICHAELIS "You are never going to find a day when everybody can come."

CARRAHER "Let's see what Mr. Warren. If the 16th is already taken, then we will take October 26."

WARREN "Either of those dates, October 26, November 2 or November 16 would all be available."

CARRAHER "I would kind of like to get a consensus from the members on which date is preferable, October 26 or November 16."

MICHAELIS "I would go for October 26. I think there are some issues that we need to get resolved, and get resolved fairly quickly. The longer you put something like this off, the harder it is to do that. Besides that, I don't think we could sit here and ever find a date where everybody can be here. So right now, if we are only looking at one out of the Commission being gone, that is pretty good odds. So my recommendation would be to schedule it on the 26th of October."

CARRAHER "Is everybody okay with October 26? Unless there is any objection, we will just set it for October 26. Okay. Ms. Osborne-Howes brought up a good point about possibly having a lunch or a late lunch."

KROUT "We will spring for that. We will work with Ray to cater the lunch somehow. We will find the funding for it."

WARREN "We have two or three catering services right there in the community. Or, if you like pizza, we've got good pizza."

CARRAHER "What time were you thinking of?"

KROUT "How about 12:30 for lunch and then maybe we plan to start sometime between 1:00 and 1:30 on the discussion. Or would you rather start at 12:00?"

OSBORNE-HOWES "I wouldn't be able to make it by then."

CARRAHER "Why don't we go ahead with noon, and we will just save some food for Ms. Osborne-Howes."

CARRAHER "Is there anything else we need to discuss in regards to the retreat? Okay."

9. Other Matters

CARRAHER "Are there any other matters that need to be brought before the Commission at this time?"

KROUT "We have two items coming up. We talked about one of them, not the other, and I wanted to make sure that there was a representative of the Planning Commission at each of these meetings.

The first meeting is October 11, that is next Wednesday afternoon. Remember that we had the Federal Transportation officials who were here and one of the subjects we talked about was environmental justice. There are a lot of questions about what that means exactly. There is a workshop in Kansas City next Wednesday afternoon. Jamsheed is going up there to attend it, and the people from the Federal Transportation Agency recommended that someone from the Planning Commission join him, if possible.

I thought maybe Frank had indicated an interest or someone did. We wanted to see if there was any interest, and we could probably take one or two people."

MEHTA "One person only."

KROUT "Okay. It would be one day and they will leave at..."

MEHTA "At 8:30 or 9:00 a.m."

KROUT "And the workshop itself is 1:00 p.m. to 5:00 p.m., which would mean that you would get back here by 8:00 p.m. or so."

CARRAHER "Is there any member of the Commission who is interested in being the representative?"

HENTZEN "If no one else is ready to go, I am free."

CARRAHER "Mr. Garofalo, were you interested?"

GAROFALO "No."

CARRAHER "If there is no one else, then Mr. Hentzen will be our representative."

HENTZEN "I will be glad to go."

CARRAHER "Okay. And the next issue, Mr. Krout."

KROUT "If you remember, we had the Equestrian stable development with single-family lots and the Planning staff brought up the issue about that this could very well be in the path of the future Southeast Bypass or Southeast Loop or Southeast Corridor. In the plan that you adopted, the Transportation Plan, we identified that there does need to be a study similar to the study that we did for the northwest to see whether or not to identify a corridor and where it would go and how we are going to try to protect land that in ways is more threatened than out by the northwest, because we already have water and sewer out there and have active rural development out in that area, too.

The County Commission did approve the zoning request, but Chairman Sciortino did indicate that he has an interest in pursuing that study and try to see how we can look at preserving right-of-way. The City of Derby has a big interest in this issue, too. We have a meeting scheduled for October 18 in the late afternoon at the office of the Kansas Turnpike Authority, and we have invited Kansas Turnpike Officials, KDOT officials, City and County Public Works, representatives from Derby, Mulvane and Haysville, and we need some representation, at least one person from the Planning Commission, to join us."

WARREN "What day is that?"

KROUT "Wednesday, October 18 at 3:30 p.m. at the KTA office at Webb Road and Kellogg. I know that you are familiar with the Derby area and you were appointed by Sciortino, so I had mentioned that that might be a possibility."

CARRAHER "Is that something that you would like to do?"

WARREN "Yes."

CARRAHER "Okay. Unless there is any objection then."

WARREN "I don't suppose it would be limited to me if somebody else wanted to go."

KROUT "That's right. We could have another person if someone else wanted to."

CARRAHER "I would love to attend, but I don't think I will be able to. Is there anyone else who would like to go in addition to Mr. Warren? Okay, Mr. Warren, you will be our official representative. Is there any other new business or any other matters that need to come before the Commission?"

GAROFALO "I want to get back to what I mentioned earlier. In our meeting, for those of you who were here when we had the meeting with the Federal people and we brought up the subject of I-235 and Kellogg. I asked them a question about what we could do to put a little fire under their butts, and I would like to make a recommendation that we at least prepare a letter from the Chair with the assistance of the Director, to point out our dissatisfaction with any delays on I-235 and Kellogg and pointing out our position in the Comprehensive Plan, etc. I think we ought to write whoever it is that they suggested. They mentioned the area District Engineer and some liaison with each district, it says here. I think we should go ahead and contact them.

Also, I would make a suggestion that at some point after the election that we try to invite the legislators of Sedgwick County to meet with us to discuss some of these projects and see if we can urge them to do something up in Topeka. Put a little heat on KDOT, or whatever they can do. I don't know if we need a motion for that or not."

CARRAHER "I just want to kind of get a consensus. Is everybody okay with that?"

HENTZEN "Frank, wouldn't it be more proper that that letter be from the City Council as opposed to a board?"

GAROFALO "I think they have done that already. The City has already been in discussions with them. But we haven't said anything as the Metropolitan Planning Organization."

KROUT "You are the Metropolitan Planning Organization, but you are also an appointed committee. I guess I do feel that probably the City Council and the County Commission would rather reserve that. What they do is they meet regularly after the elections, in December or January, with the local legislatures and they present our local legislative package.

What we could do, on behalf of the Planning Commission, maybe draft that letter to the City Council and the County Commission, saying 'we want you to include this on your legislative agenda, and to be sure to discuss this with local legislators'."

GAROFALO "What about the letter to these?"

KROUT "I don't think there is a problem with the M.P.O. sending a letter to KDOT. That is fine."

WARREN "I was just going to agree with Frank. I think we were pretty tough on that guy and those people, and I think we ought to follow it up. The more they hear from, the better, I think."

GAROFALO "It may not do a bit of good, but at least they will know where we stand."

WARREN "You bet. And we had a lot of input into the overall planning."

CARRAHER "So I can safely assume that we have a consensus on both issues? Frank, I would like to have you, on the first issue of the letter to join in on the composition of the letter, okay?"

GAROFALO "That's fine."

CARRAHER "Are there any other matters that need to come before the Commission at this time? The only other issue that seems to be on our agenda is reserved for the Advance Plans Committee, so with that in mind, I would entertain a motion for adjournment."

MOTION: That the Metropolitan Area Planning Commission adjourn.

LOPEZ moved, **WARREN** seconded the motion, and it carried unanimously.

The meeting formally adjourned at 4:10 p.m.

State of Kansas)
Sedgwick County) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2000.

Marvin S. Krout, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)